

立法會
Legislative Council

LC Paper No. CB(1)1691/02-03
(These minutes have been seen
by the Administration)

Ref : CB1/BC/3/02

Bills Committee on Land Titles Bill

**Minutes of fourth meeting held on
Monday, 5 May 2003 at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)
Hon Albert HO Chun-yan (Deputy Chairman)
Hon Miriam LAU Kin-ye, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Hon Andrew WONG Wang-fat, JP
Hon Abraham SHEK Lai-him, JP
Hon LAU Ping-cheung
- Public officers attending** : Mr Kim SALKELD
Land Registrar
- Mr Parrish NG
Principal Assistant Secretary for Housing, Planning
and Lands (Planning and Lands)3
- Mrs Alice LEE
Registry Manager
Land Registry

Ms May LEE
Assistant Official Receiver
(formerly Deputy Principal Solicitor (Land Registry))

Ms Monica LO
Senior Solicitor/Title Registration
Land Registry

Mr Geoffrey FOX
Senior Assistant Law Draftsman
Department of Justice

Ms Rayne CHAI
Government Counsel
Department of Justice

Mr Denis LI
Assistant Secretary (Planning and Lands) (Buildings)³
Housing, Planning and Lands Bureau

Clerk in attendance : Miss Salumi CHAN
Chief Assistant Secretary (1)5

Staff in attendance : Mr KAU Kin-wah
Assistant Legal Adviser 6

Mrs Queenie YU
Senior Assistant Secretary (1)6

Ms Sarah YUEN
Senior Assistant Secretary (1)10

Action

- I. Confirmation of minutes of meeting**
(LC Paper No. CB(1)1568/02-03 — Minutes of third meeting held on
23 April 2003)

The minutes of the third meeting held on 23 April 2003 were confirmed.

II. Meeting with the Administration

(LC Paper No. CB(1)1464/02-03(04) — Paper provided by the Administration on “The Conversion Mechanism”

LC Paper No. CB(1)1464/02-03(05) — Paper provided by the Administration on “Comparison between Proposed Land Title Registration System for Hong Kong and other Jurisdictions”

LC Paper No. CB(1)1567/02-03(01) — “Follow-up to the third meeting on 23 April 2003” prepared by the Legislative Council Secretariat

LC Paper No. CB(1)1567/02-03(02) — Paper provided by the Administration on “Certificate of Good Title”

LC Paper No. CB(1)1567/02-03(03) — Paper provided by the Administration on “Financial and Staffing Implications of Title Registration”

2. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions to be taken by the Administration

Admin 3. At the request of the Bills Committee, the Administration agreed to take the following actions -

- (a) To provide, as soon as practicable, a paper addressing the following two clarifications sought by the Assistant Legal Adviser -
 - (i) Under which provision of the Bill would title registration become compulsory for new transactions? The Administration’s response should include its proposed amendment to the definition of “land” in clause 12(4); and
 - (ii) How would the rights and easements created by deeds of mutual covenant be registered?
- (b) To address the following points of concern raised by members on the paper on “Certificate of Good Title” (LC Paper No. CB(1)1567/02-03(02)) -
 - (i) When a solicitor issued a certificate of good title, he was required

to state that he had examined all the title deeds produced by the vendor in accordance with section 13 of the Conveyancing and Property Ordinance (Cap. 219) and was satisfied that the vendor had good title to the property. It was not easy at all for a solicitor to fulfill this requirement because:

- some of the title problems that needed to be resolved before a transfer could take place were in fact very difficult to resolve. For example, if the power of attorney was defective, it was very difficult to locate the donor of the power of attorney to confirm the instrument in question; and
 - the title defects set out in paragraph 12 of the paper precluded the issue of a certificate of good title.
- (ii) In view of the problems mentioned in item (i) above, some solicitors might, for the sake of completing the transaction, issue a certificate of good title even though they were not satisfied that the vendor had good title to the property. The interests of the purchaser would therefore be unduly affected; and
- (iii) Given the liability involved in the issue of a certificate of good title, there might be a significant increase in the insurance premiums to be borne by solicitors.
- (c) To work out a mechanism for the settling of disputes over whether a certificate of good title should be issued in respect of the property concerned. A proposed option was that if both the vendor's solicitor and the purchaser's solicitor agreed, the case could be brought to the court for determination.

Date of next meeting

4. The Chairman reminded members that the next meeting of the Bills Committee would be held on Monday, 12 May 2003, at 2:30 pm to receive the following deputations -

- (a) The Real Estate Developers Association of Hong Kong;
- (b) Consumer Council;
- (c) The Law Society of Hong Kong;
- (d) The Hong Kong Institute of Surveyors;
- (e) Hong Kong Bar Association; and
- (f) Heung Yee Kuk New Territories.

5. The Chairman urged the Administration to provide the paper on the proposed indemnity scheme to the Bills Committee before the next meeting on 12 May 2003.

III. Any other business

6. There being no other business, the meeting ended at 10:40 am.

Council Business Division 1
Legislative Council Secretariat
15 May 2003

Appendix

**Proceedings of the fourth meeting of the
Bills Committee on Land Titles Bill
on Monday, 5 May 2003 at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000010	Chairman	Confirmation of minutes of the meeting held on 23 April 2003	
000011-000020	Chairman	Opening remarks	
000021-000845	Chairman Administration	The conversion mechanism - (a) How far the problems of defective title could be addressed (b) Obstacles to the issue of certificates of good title (Paragraphs 21 and 26 of LC Paper No. CB(1)1464/02-03(04))	
000846-002131	Chairman Ms Audrey EU Administration	(a) Impact of equities and unregistered interests on property transactions under the proposed land title registration system (LTRS) (b) Implications of the proposed LTRS on the Law Society's Professional Indemnity Scheme (PIS) arising from the liability involved in the requirement for solicitors to issue certificates of good title	

Time marker	Speaker	Subject(s)	Action Required
002132-003653	Chairman Ms Miriam LAU Administration	(a) Grey areas in land titles and whether “good title” under the LTRS covered “marketable title” (b) The need to work out a mechanism for the settling of disputes over whether a certificate of good title should be issued in respect of the property concerned (clause 88) (c) Obtaining an opinion from a counsel as a safeguard for the issue of certificates of good title	Administration to provide the required information under paragraph 3(c) of the minutes
003654-005831	Chairman Administration	Briefing by the Administration on the paper on “Certificate of Good Title” (LC Paper No. CB(1)1567/02-03(02))	
005832-010414	Chairman Mr TAM Yiu-chung Administration	(a) Impact of title problems and title defects on the issue of certificates of good title (b) Possible situation that some solicitors might issue a certificate of good title even though they were not satisfied that the vendor had good title to the property	

Time marker	Speaker	Subject(s)	Action Required
010415-011611	Chairman Mr Albert HO Administration	Respective roles of the Land Registrar and the solicitor in ensuring proper issue of certificates of good title (clause 6)	
011612-013355	Chairman Mr Albert CHAN Administration	(a) Protection of owners' interests in the registration process (b) Proposed setting up of a mechanism to handle the conversion problems in the first few years after the implementation of LTRS	
013356-013911	Chairman Dr TANG Siu-tong Administration	(a) Security of title under the proposed LTRS (b) Liability and compensation for erroneous entry in the Title Register under the proposed LTRS (Paragraph 25 of LC Paper No. CB(1)1464/02-03(04))	
013912-015502	Chairman Ms Miriam LAU Administration	(a) Difficulties in resolving certain title problems under the proposed LTRS (b) Liability involved in the issue of certificates of good title and hence significant increase in the insurance premiums to be borne by solicitors under the PIS	Administration to provide the required information under paragraph 3(b) of the minutes

Time marker	Speaker	Subject(s)	Action Required
		(c) Need for solutions to the problems described in (a) and (b) above to facilitate conversion of marketable but not perfectly good titles	
015503-020259	Chairman Assistant Legal Adviser 6 Administration	(a) Provision under which title registration would become compulsory for new transactions (clause 12) (b) Conversion of existing deeds of mutual covenant (clause 24(1)(c)) and the registration of rights and easements created by the deeds of mutual covenant (clause 51)) (c) Administration's proposed amendment to the definition of "land" in clause 12(4)	Administration to provide the required information under paragraph 3(a) of the minutes
020300-020433	Chairman	(a) Date and arrangements for next meeting (b) Paper to be provided by the Administration	